

Minutes of the Ashburnham Zoning Board of Appeals
November 16, 2011
7:30 PM

Present: David Perry, Chairman; Joseph Daigle, Rich Archer
and Terry Girouard

Absent: Mark Carlisle and Cheryl Anderson

Hearing 11-06
7:30 PM

1. David opens Hearing @ 7:32 PM
2. No Appellant present
3. David explains on going situation with Mr. Storm and Mr. Wang with Town officials.
 - A. Extensive Discussion
4. David makes motion not to accept letter of withdrawal from Mr. Wang
 - A. Seconded by Rich
 - B. Discussion
 - C. Vote-Unanimous
 - D. Hearing continued until 12/7/2011 @ 7:30 pm
5. David advises on Gorell's Appeal:
 - A. Reads letter from Town Counsel (Email) (Exhibit 1)
 - B. Informs Board on last hearing (11/9/2011)
 - Mr. Gorell's requests are on hold until court case is satisfied
6. David advises Board of talks with Town Administrator, regarding Tower on Meeting House Hill
 - A. Latter Tower
 - B. Municipal use for now
 - C. Matter tabled for now

Hearing 11-07
Variance 4.2
8:15 PM

1. David opens hearing at 8:15 PM
 - A. Introduces the Board

- B. Explains 4 member Board
 - C. David explains rules of obtaining a variance as opposed to a Special Permit
 - D. Discussion on decision
2. Appellant decides to accept the 4 member Board
3. David turns hearing over to Appellant
- A. Joan M. Ficarra speaks to the Appeal
 - 1. Home cannot be winterized
 - 2. Meets side set backs
4. Joe makes motion that due to the fact that the tax card provided suggests the structure was created on or before 1969. Therefore 1.42 applies and that a finding exists of a pre-existing non conforming home therefore a special permit may be sought.
- A. Seconded by Terry
 - B. Vote- Unanimous to a finding of pre existing, non-conforming
5. Appellant Continues:
- A. Existing home has no foundation
 - B. House to be removed and a new one built
 - C. New septic system designed and approved
6. Terry asks about height.
- A. Not to exceed 35 feet
7. David asks about set backs
- A. As presented on plan submitted
8. David makes motion to grant special permit with conditions:
- A. Height
 - B. Set Backs
 - C. Seconded by Terry
 - D. Vote: Unanimous to grant special permit with conditions.
9. David Explains appeal process and closes hearing @ 8:50 PM
10. David motions to adjourn @ 8:55 P.M.

Respectfully submitted,

Joseph B. Daigle, Clerk

Mary Ellen Kelly

From: Debbie Phillips <dphillips.nandp@verizon.net>
Sent: Tuesday, October 25, 2011 11:20 AM
To: Mary Ellen Kelly
Cc: Sylvia Turcotte
Subject: Tolson v. ZBA/Gorrell

Mary Ellen,

Dave Perry asked me how to proceed at the meeting scheduled for November 9, 2011 to review the special permit the board voted to grant Mr. Gorrell in September. The board's decision granting the special permit has been appealed to the Superior Court. In my opinion, where an appeal was taken, there is nothing for the ZBA to review. Implementation of the board's decision is essentially on hold until the matter is resolved through the judicial process.

In light of this, Dave would like to know if he may excuse the other board members from the November 9th meeting since there is no other ZBA business scheduled for that meeting. He would attend and make an announcement regarding the appeal and advising anyone attending that implementation of the board's decision is on hold until the matter is resolved through the court, so the ZBA has nothing to review at this time. I believe that this is a reasonable approach. Since the board cannot act, it doesn't need a quorum present that evening. If there are any other questions, just let me know. Debbie

C. Deborah Phillips, Esq.
Nickless, Phillips and O'Connor, PC
625 Main Street
Fitchburg, MA 01420
(978) 342-4590 ph
(978) 343-6383 fx
dphillips.nandp@verizon.net

CONFIDENTIAL, PROPRIETARY and PRIVILEGED: The information contained in this e-mail and any attachments constitutes proprietary and confidential information of Nickless, Phillips and O'Connor, PC. This communication contains information that is proprietary and may be subject to the attorney-client, work product or other legal privilege or otherwise legally exempt from disclosure even if received in error. The communication is intended for the use of the addressee only. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by return e-mail and destroy any copies, electronic, paper or otherwise, which you may have of this communication. Thank you for your cooperation.

10/25/11 11:01 AM
PROCESSED
10/25/11 11:01 AM

ZONING VARIANCE PLAN
AT 42 HILLTOP DRIVE
PREPARED FOR
JOAN M. FICARRA
ASHBURNHAM, MA

RECEIVED

11 NOV 17 PM 3:31

SCALE: 1 INCH = 30 FEET

DATE: OCTOBER 11, 2011

PREPARED BY EDMOND J. BOUCHER, PLS
4 JOLLY ROAD, ROYALSTON, MA 01368
TEL: 978-249-6685

